

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

ALLEN ALPHONZO ADAMS,

Petitioner,

v.

BRUCE CHAPMAN and
BRIAN OWENS, Commissioner of the
Georgia Department of Corrections,

Respondents.

CASE NO. 5:09-CV-306 (HL)
28 U.S.C. § 2254

ORDER

On October 21, 2009, this Court entered an order (Doc. 14) adopting the Report and Recommendation of United States Magistrate Judge Claude W. Hicks Jr. on Petitioner Allen Alphonzo Adams' Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2254. Adams' petition addresses two convictions in Putnam County Superior Court, one in 1992 and one in 2007. In its order, the Court dismissed the petition with prejudice as to the 1992 conviction.

Adams has now filed a Motion to Vacate (Doc. 22) the Court's order. While the Motion is difficult to understand, Adams appears to state that he has applied to the Eleventh Circuit for permission to file a successive habeas petition as required by 28 U.S.C. § 2244(b)(3)(4). If that is in fact the case, there is still no reason for the Court to vacate its previous order. The Court will, however, modify its previous order

(Doc. 14) and make the dismissal one without prejudice, based on the Court's lack of jurisdiction over the petition as to the 1992 conviction.

Adams' Motion to Vacate (Doc. 22) is denied. The Court's October 21, 2009 order is modified so that Adams' petition is dismissed without prejudice as to the 1992 conviction.

SO ORDERED, this the 4th day of January, 2010.

s/ Hugh Lawson
HUGH LAWSON
UNITED STATES SENIOR JUDGE

mbh